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Prior to the adoption of the N. I. L. the greatest confusion existed in the cases dealing with the irregular indorser. The English courts apparently held him not liable at all. *Steele v. McKinlay* (1880) L. R. 5 A. C. 754. In some American states he was held to be "presumptively" a joint maker; but there was no agreement whether the "presumption" was "conclusive" or "merely *prima facie*." In others he was presumed to be a guarantor. Other states had still different rules. See note to *Cromwell v. Hewitt* (1869) 40 N. Y. 491; also Norton, *Bills and Notes* (4th ed.) 188-189. The N. I. L. provides as follows: "Sec. 63. A person placing his signature upon an instrument otherwise than as maker, drawer or acceptor, is deemed to be an indorser, unless he clearly indicates by appropriate words his intention to be bound in some other capacity." "Sec. 64. Where a person, not otherwise a party to an instrument, places thereon his signature in blank before delivery, he is liable as indorser, in accordance with the following rules: 1. If the instrument is payable to the order of a third person, he is liable to the payee and to all subsequent parties. 2. If the instrument is payable to the order of the maker or drawer, or is payable to bearer, he is liable to all parties subsequent to the maker or drawer. 3. If he signs for the accommodation of the payee, he is liable to all parties subsequent to the payee." This language seems clear enough in all reason, but the expected complete uniformity has not resulted. However, a large majority of the states which have passed upon the subject have agreed in reaching the result arrived at in the principal case, *viz.*, that oral agreements of the parties are irrelevant in determining the liability of the irregular indorser. Unfortunately, at least so far as uniformity is concerned, the New York Court of Appeals has taken the view that these provisions of the N. I. L. do nothing more than create "presumptions" as to the obligations of the irregular indorser—the presumptions differing as to details from those which existed before the act was passed. Thus the door is still open in New York for evidence as to the actual agreement of the original parties. *Haddock, Blanchard & Co. v. Haddock* (1908) 192 N. Y. 499, 85 N. E. 68. One or two other states have taken a similar view. *Hunter v. Harris* (1912) 63 Or. 505, 127 Pac. 786; *Mercantile Bank of Memphis v. Busby* (1908) 120 Tenn. 652, 113 S. W. 390. The English Bills of Exchange Act is regarded as making the irregular indorser liable to the payee as an indorser, *Glenie v. Bruce Smith* [1908] 1 K. B. 263. So far as abstract justice is concerned much may be said for the view taken by the New York courts; however, it is hard to justify it in view of the clear language of the statute. It also fails to carry out the plan to secure uniformity in commercial law. Moreover, the statutory provision itself, as applied to the case in hand, may well be justified as a practical rule, on the ground that in most cases the real agreement of the parties is that the irregular indorser shall be liable to the payee, and that whatever injustice may be done in the few cases where this is not so is more than counterbalanced by the opportunities which the permission to introduce extrinsic evidence gives to dishonest defendants to escape from the results of their agreements. To this may be added the saving of time and expense, both to the litigants and the public, by the elimination of a trial of the issues raised by the extrinsic evidence if it be admitted.

CONFLICT OF LAWS—HEIR'S COMPULSORY PORTION—RIGHTS OF ITALIAN HUSBAND IN WIFE'S PROPERTY IN FRANCE.—The wife of an Italian subject, who had acquired a domicile *de facto* in France, left all of her property by will to her mother. Her husband brought an action in France against his mother-in-law for the recovery of a life-estate in one-third of the wife's property in France, basing his claim upon the provisions of the Italian Code relating to the heir's

compulsory portion. *Held*, (1) that his contention was not well-founded with respect to the immovable property, inasmuch as the rights therein were controlled by the law of the *situs* and the French law did not confer upon the surviving husband or wife a right to a compulsory portion; and (2) that he was entitled to the enjoyment during his life of one-third of the wife's movable property in accordance with the provisions of the Italian law. *Tisserand v. Pellegrino* (1917, Tribunal civil de Nice) 44 CLUNET, 1792.

See COMMENTS, p. 181.

CONFLICT OF LAWS—WORKMEN'S COMPENSATION ACT—EXTRATERRITORIAL INJURY.—An employer doing a general contracting business in the Northwest, but with general offices in Minnesota, made in that state a contract with a workman to go to another state to work. While so employed the workman was killed by an accident arising out of and in the course of his employment. His dependents in Minnesota claimed compensation in that state under the state Compensation Act. *Held*, that the claimants were entitled to recover under the Minnesota law. *State ex rel. Maryland, etc., Co. v. District Court* (1918, Minn.) 168 N. W. 177.

The decision is placed by the court upon the ground that the Minnesota act was intended to compensate for injuries, whether intraterritorial or extraterritorial, incurred as incidental to a business "localized in the state." For a discussion of the problems involved in this and similar cases, see (1917) 27 YALE LAW JOURNAL, 113; (1918) 27 *ibid.* 707.

CONSTITUTIONAL LAW—CLASS LEGISLATION—STERILIZATION OF THE MENTALLY DEFECTIVE IN STATE INSTITUTIONS.—A Michigan statute authorized the management of any publicly maintained institution for the insane and feeble-minded to render incapable of procreation any individual confined there who had been adjudicated by the proper court to be a proper subject for such treatment. The superintendent of an institution applied for a writ of *mandamus* to compel such adjudication in respect of an inmate of his institution. *Held*, that the statute was unconstitutional as denying equal protection of the laws, and that no writ should issue. *Haynes v. Lapeer Circuit Judge* (1918, Mich.) 166 N. W. 938.

The prevention of procreation by criminals and imbeciles has been advocated for some time by scientists and societies. See 27 MEDICO-LEGAL JOUR. 134; Warner, *American Charities*, 133 f. Whatever may be said of the operation as a punishment for crime,—on which see Baldwin, *Whipping and Castration as Punishments for Crime* (1899) 8 YALE LAW JOURNAL, 371, 380 ff.; *State v. Feilen* (1912) 70 Wash. 65, 126 Pac. 75, 41 L. R. A. (N. S.) 418 and note; and COMMENTS (1914) 23 YALE LAW JOURNAL, 363—the use of some such operation to prevent the propagation of imbeciles is highly desirable. For imbecility is an inheritable trait. Lombroso, *Crime: Its Causes and Remedies*, sec. 74; *Proceedings of National Conference of Charities and Correction* (1903) 245-253. And the mentally defective have a peculiar bent toward uncontrolled procreation. *Proceedings of National Conference of Charities and Correction* (1902) 154. To meet this statutes have been passed making it a crime—in substance—to obtain carnal knowledge of an imbecile, epileptic, etc., of the opposite sex, within the period of fecundity. (Ind.) Burns' Ann. St. 1914, secs. 2250, 2251. Exception is made in favor of husband or wife; but the issuance of a marriage license to persons of the restricted class is prohibited. *Ibid.* sec. 8365; but see *Franklin v. Lee* (1902) 30 Ind. App. 31, 62 N. E. 78. There seems to be no question as to the constitutionality of such statutes, nor as to their beneficial